IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 24597 of 2003

Between:

Sri Gadde Venkateshwarlu S/o Gopaiah
Sri Rama Furniture Works, Mohabubabad,
Warangal District

..... PETITIONER

AND

1 The Divisional Forest Officer, South Division, Warangal, Warangal District
2 The Conservator of Forests, Warangal Circle, Warangal, Warangal District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the order dated 4-11-2003 in proceedings No. 3186/2002/S3d issued by the 1st respondent as illegal and without jurisdiction.

Counsel for the Petitioner:MR.A.PRABHAKAR RAO

Counsel for the Respondents: GP FOR FORESTS

The Court made the following :

ORDER:

The petitioner, who claims to be a carpenter, filed this writ petition, inter alia, seeking writ of Mandamus challenging the orders dated 04-11-2003, wherein the respondent No.1 herein has imposed a penalty of Rs.89,676/- for storing illegal teak timber without any valid permit, which has been noticed in an inspection made by the authorities on 07-05-2003.

2. The case of the petitioner is that though illegal timber was found without valid permit or permission as contemplated under the law, he submits that he has admitted the guilt, given the compound statement and immediately paid a sum of Rs.20,000/- towards compounding fee. According to him the value of the seized material, which was found in a furniture work shop, is only Rs.22,419/-. However, the offence was not compounded by the Forest Range Officer, as contemplated under the Rules. But, in an appeal preferred by himself, the 1st respondent has imposed the penalty of Rs.89,676/- and by deducting the sum of Rs.20,000/-, which has already been paid by the petitioner, balance compound fee of Rs.69,676/- was demanded, which according to the petitioner is not only quite a higher side, but if the offence is compounded by the Forest Range Officer, the amount could have been hardly one time or two times and not to said amount. Hence, the Writ Petition.

3. The learned Government Pleader for Forest sought to sustain the impugned orders on the ground that the 1st respondent has ample powers to impose such penalty as appellate authority. Therefore, the petitioner cannot question the quantity of penalty as such.

4. Considering the submissions made and also on perusal of the material on record, the question, which arises for consideration, is whether the quantum of penalty as imposed by the respondent No.1 herein is sustainable.

5. According to the petitioner, if the offence is compounded by the Forest Range Officer, the amount could have been hardly two times the value of the seized material. Further, having regard to the value of Rs.22,419/- the offence could have been compounded by the very same authority, which has not been done so. Whereas, in appeal, the 1st respondent-appellate authority sought to impose such a heavier penalty.

6. There is no dispute to the fact that it is the 1st respondent-appellate authority, which is only an extension of the original authority, who can amply exercise all such powers as the original authority. Therefore, there is nothing wrong in imposing the penalty. However, the fact remains that the Forest Rang Officer, who is the competent authority, having regard to the value of the goods, which comes to Rs.22,419/-, did not impose any penalty nor fix up any amount as such. It is only in appeal, the appellate authority sought to impose the penalty by four times. Even by exercising any such original authority by the appellate authority, the appellate authority could not have been gone beyond what the original authority could have exercise.

7. The Writ Petition is, accordingly, partly allowed. The amount of Rs.89,676/- is reduced to Rs.48,838/-, which is two times of the value of the material seized. After deducting a sum of Rs.20,000/-, paid by the petitioner, from Rs.48,838/-, the petitioner shall have to pay the balance of Rs.28,838/-, within a period of six weeks from the date of the receipt of a copy of this order. No costs.

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B.PRAKASH RAO, J.

Dated 13-08-2004.

SKMR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Divisional Forest Officer, South Division, Warangal, Warangal District

2 The Conservator of Forests, Warangal Circle, Warangal, Warangal District

3. 2CCs to G.P. for Forests, High Court Buildings, Hyderabad,

A.P.(OUT).

4. 2CD copies